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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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IN THE MATTER OF QWEST)	DOCKET NO. T-01051B-03-0454
CORPORATION'S FILING AMENDED)	
RENEWED PRICE REGULATION)	
PLAN.)	
)	
IN THE MATTER OF THE)	DOCKET NO. T-00000D-00-0672
INVESTIGATION OF THE COST OF)	
TELECOMMUNICATIONS ACCESS.)	

MCI'S POST HEARING BRIEF

In accordance with Administrative Law Judge Jane Rodda's oral ruling at the conclusion of these proceedings, the regulated subsidiaries of MCI, Inc., ("MCI") submit these closing comments. MCI supports approval of the settlement agreement endorsed by all parties to this proceeding except the Residential Utilities Consumer Office ("RUCO").

MCI EXHIBITS

MCI submitted four exhibits in this proceeding. They include Exhibit MCI-1, Direct Testimony of Don Price with Exhibits DP-1 – DP-7, dated November 18, 2004; Exhibit MCI- 2, Cross Answer and Surrebuttal Testimony of Don Price, dated January 12, 2005; Exhibit MCI-3, Supplemental Direct Testimony of Don Price, dated September

6, 2005; and Exhibit MCI-4, Notice of Errata to Prefiled Testimony, dated October 28, 2005. All of these exhibits have been admitted into evidence.

RELIEF REQUESTED BY MCI

MCI requests that the Commission take immediate action to rectify the uneconomic, anticompetitive and discriminatory rates for intrastate switched access because existing rate levels distort retail service markets and unjustly penalize both consumers and traditional long distance service providers such as MCI.

SETTLEMENT AGREEMENT

MCI supports the entire Settlement Agreement and specifically supports that portion of the Agreement providing for an immediate and permanent reduction to Qwest Corporation's ("Qwest") intrastate switched access rates by \$12 million on an industry-wide basis. MCI believes that the Settlement Agreement is a fair and reasonable compromise among all the signatories and takes a significant step forward in addressing MCI's concerns and relief requested.

INTRODUCTION

Access charges are fees paid by long distance companies to local exchange carriers for the use of local network facilities to originate and terminate long distance calls.¹ Access charges are paid on both the originating and terminating ends of long distance calls. On the originating end of a call, the long distance provider pays, for example, Qwest to carry the call from the calling party to the long distance provider's closest facility. On the terminating end, the long distance provider pays Qwest, again for example, to carry the call from the long distance provider's closest facility to the called

¹ See Don Price's Direct Testimony, Exhibit MCI-1, beginning at page 26.

party's premises. Access charges are made up of different rate elements, but generally compensate Qwest for use of interoffice transmission (transport) facilities, local switching facilities, and the cost of the loop plant that connects to the calling and called parties' premises. Access charges were originally created to replace a revenue stream that historically was generated by the Bell Companies' participation in the provision of retail long distance services as part of the vertically integrated monopoly. Although by 1983 the FCC had been investigating the need for a new means of compensation for five years, access charges for interstate calling were put in place coincident with the divestiture of the Bell Operating Companies from the Bell System on January 1, 1984. At about the same time, this Commission and other state regulators also established switched access charges for intrastate calling.

Switched access charges, therefore, became the means whereby Qwest (formerly known as U S WEST Communications) and other incumbent local exchange carriers generated wholesale revenues that replaced the revenue streams obtained previously from the pre-divestiture separations and settlements and division of revenues processes.²

Changes in technology, markets, and regulation that have taken place over the past two decades necessitate a complete reexamination of state retail regulation now. Many technological developments have transformed the way traditionally regulated services are provided, including computerized switching, fiber optical transmission and Internet protocols. Those changes, in combination with advances in microelectronics,

² There are lengthy discussions of those processes in the FCC Orders in CC Docket 78-72 that implemented the access charge regime at the interstate level. The Arizona Corporation Commission, in its Decision No. 54843, dated January 10, 1986, in Dockets E-1051-84-100, et al, at pp. 53-54, stated that intrastate access rates were established in order to "compensate Mountain States during 1984 ... as if the previous separations and settlements agreements between ATTCOM and Mountain States had remained in effect."

have facilitated the rapid growth of new forms of competition, including wireless and broadband communications services, and the growing emergence of new wireless broadband capabilities, such as Wi-Fi and Wi-Max.

These dramatic changes require a complete rethinking of traditional, retail, top-down ratemaking principles, because application of those principles or tools in today's climate has created regulatory "underbrush" that interferes with the technical and market dynamics that otherwise are at work. Traditional regulation stands in the way of allowing consumers to pick the winners and losers in the marketplace.

Against this backdrop, the Settlement Agreement takes a reasonable but cautious approach in addressing the dramatic technological and market changes that Qwest and MCI have discussed in their testimony.

HISTORY OF IXC'S EFFORTS TO REDUCE SWITCHED ACCESS RATES

RUCO opposes the settlement agreement in general, and in its testimony suggests that switched access reductions should be put off until another day. This approach is unjustified, is unsound from an economic standpoint, would perpetuate unjustified rate discrimination, and is bad public policy. Reductions in intrastate switched access charges have been put off long enough. Waiting for the Federal Communications Commission ("FCC") to complete its intercarrier compensation proceeding is not a realistic, or timely option. Arizona has an obligation and the opportunity to take steps now that are appropriate for this state.

A brief history of MCI's efforts to achieve intrastate access charge reform is warranted to demonstrate why postponing access reductions is inappropriate and that

such reductions are long overdue.³ More than seven years ago, on April 18, 1997, MCI filed a complaint against Qwest (then US WEST) contending that Qwest's access charges were unlawful, unjust, unreasonable and discriminatory. MCI maintained that access should be priced at economic cost. The Commission agreed that access charges were not set at their economic levels, but concluded that any adjustment must be done as part of an overall review of Qwest's rates. Thus, MCI's complaint was dismissed by the Commission with the promise that access charges would be reviewed in Qwest's next rate case. Significantly, the Commission also held that "... the pricing of access charges should be taken into consideration as part of any request by US WEST to enter into Arizona's interLATA toll market."⁴

At the August 22, 2000 Open Meeting, former Chairman Kunasek requested an investigation into whether access charges for Arizona utilities reflected the cost of access. A docket was opened on September 5, 2000 (Docket No. T-00000D-00-0672), but it was suspended two years later by a Procedural Order, issued on July 8, 2002.

In the meantime, on March 30, 2001, in the Qwest rate case filed after MCI's 1997 access complaint was dismissed, the Commission, as part of a global settlement, approved a minimal access charge reduction (\$5 million per year for 3 years) and stated that it was the intention of the Commission to continue to reduce intrastate access charges to the same level as contained in Qwest's interstate access tariff (i.e., interstate parity).⁵ Because this minimal reduction was the product of a settlement, the Commission did not

³ This chronology is set forth in Exhibit MCI-1, beginning at page 45.

⁴ A.C.C. Decision No. 60596, January 14, 1998.

⁵ A.C.C. Decision No. 63487, March 30, 2001 and Settlement Agreement, Attachment A, Section 3(d) ("An exception includes Intrastate Switched Access Services which are to be reduced by \$5 million per year for the duration of the initial term of the Plan, with further reductions in Intrastate Switched Access Service rates taking place during any subsequent term of the Price Cap Plan with the objective of obtaining parity with interstate switched access rates.")

undertake any significant evaluation of intrastate access charges at that time. Instead, the Commission concluded that access charge issues should be addressed in a generic docket. At the time, Docket No. T-00000D-00-0672 was pending, and was a potential vehicle for such an examination but, as indicated above, that review was suspended the following year.

The access charge issue was raised again at the September 19, 2003 Open Meeting at which the Commission recommended that the FCC grant Qwest's 271 application for long distance authority. Then Chairman Spitzer, after listening to price squeeze concerns, requested an expedited investigation of access charges.⁶ As a result, the previously suspended access charge investigation (Docket No. T-00000D-00-0672) was reactivated. Before that investigation was formally concluded, that case became consolidated with the present proceeding.

Thus, despite MCI's and other interexchange carriers' ("IXCs") repeated attempts to have the Commission address switched access charge issues, no comprehensive access charge case has been conducted, let alone completed, in Arizona. Despite the Commissioner's direction in Decision 60596 that access charges be evaluated as part of any request by Qwest to enter the long distance market, Qwest was granted such entry without such an investigation taking place, let alone without any rate reductions being implemented.

All of this activity preceded the significant growth of new competition in telecommunications markets generally, and particularly in the long distance market. Because high access charges directly affect the economics and competitive posture of the

⁶ See, Transcript from Special Open Meeting held on September 19, 2003, in Docket No. T-00000A-97-0238, at page 97, lines 23-25, page 98, lines 12-25.

long distance industry, these developments add further compelling justification for implementing intrastate switched access reductions.

DISPARATE COMPENSATION SCHEMES

As the record demonstrates, high access charges have a particularly unfair and devastating impact on interexchange carriers. In particular, the above-cost, in-state switched access rates that IXC's pay do not apply to calls handled by wireless carriers.⁷ The compensation arrangement between wireless carriers and Qwest for originating and terminating calls (both wireless-to-landline and landline-to-wireless) is very different from that applied to interexchange carriers. However, the functions performed by Qwest when furnishing access to and from wireline and wireless service providers are identical. In this environment, charging different rates to different providers has artificially skewed the market for wireless and wireline long distance calling – to the clear and unfair disadvantage of traditional IXC's. Moreover, charging different rates to different firms for the same service is discriminatory. In this case, there is no rational basis for the disparate pricing schemes.

For wireless calls, rather than using Qwest's local calling areas to determine what is an "interexchange call," the intercarrier compensation is based on whether the call is within a Major Trading Area ("MTA") – which in the case of Arizona is virtually the entire state. This is depicted in Exhibit DP-5, which is attached to Exhibit MCI-1, and is a map generated by the FCC's Wireless Telecommunications Bureau that shows the Major Trading Areas for the United States.⁸ A call originated on a wireless phone and

⁷ See Exhibit MCI-1, beginning at page 36.

⁸ As noted on DP-5 to Exhibit MCI-1, the term Major Trading Area is based on material that is copyrighted by Rand McNally & Company.

terminated by Qwest within “MTA 27” is subject to the cost-based reciprocal compensation rates established by this Commission. This translates into a cost to the wireless carrier of something less than 1/10th cent (i.e., \$ 0.001) per minute.⁹ Comparatively, for completing a similar call, an IXC must pay compensation to Qwest for the terminating Carrier Common Line Charge (CCLC), local switching and a port that is nearly 34 times as much as a wireless carrier pays for the function of terminating a similar call.¹⁰

This gross inequity is not based on any cost difference in the function provided by Qwest, as the functions involved in originating and terminating calls are identical regardless of which service provider originates the call. And the effect of this gross inequity is that consumers will make economically distorted choices – substituting their wireless phone for their wireline phone to make a certain call. This substitution is apparently taking place in many markets nationwide, due almost entirely to the incorrect pricing signals regulators have sent by continuing to levy above-cost access rates on one class of carrier – the IXC – that do not apply to their competitors, the wireless carriers. As an example, the Federal-State Joint Board Monitoring Report, released October 12, 2004, contains information signaling the extent to which such substitution is occurring. That report contains a table (Table 1.2) on “Telecommunications Industry Revenue by Service,” which shows that from 1999 to 2002 wireless service revenues was up by 67.7

⁹ See, sum of rates found in Qwest Response to ATT Data Request 01-011, Attachment A, attached as DP-6 to Exhibit MCI-1.

¹⁰ The combined rate for terminating switched access without transport and other services, is \$0.03275 per minute (see, footnote 51, in Exhibit MCI-1) or nearly 3.3 cents; whereas the reciprocal compensation rate for local switching charged to wireless carrier found on DP-6 to Exhibit MCI-1 is about 1/10th of a cent. (.03275/.0009695 = 33.78).

percent, whereas revenues for direct-dial toll services were down by 30.5 percent during the same period.

Interexchange carriers are disadvantaged in other ways as well. In addition to wireless carriers, other non-traditional service providers such as Vonage and Skype are not subject to in-state switched access fees that IXC's must pay because of the way they provide their services.¹¹ The issue of whether such firms must pay some form of compensation to local exchange carriers for termination of their calls on the public switched network has yet to be determined by the FCC but is an issue in pending FCC rulemaking proceedings on IP-enabled telephony. Pending resolution of such issues at the national level, IXC's will continue to be placed at an unfair disadvantage.

MCI has provided specific information about the extent of these rate disparities through the testimony of Mr. Price. Specifically, page 39 of Exhibit MCI-1, contains a graphic display of the rate disparities in effect in Arizona for termination of calls on the public switched network. The Settlement Agreement will not completely overcome these disparities, but will represent a meaningful step forward in addressing the problem.

CONCLUSION

Qwest¹² and the Department of Defense and Federal Executive Agencies¹³ agree with MCI witness Don Price that Arizona switched access rates are priced well above

¹¹ See Exhibit MCI-1 beginning at page 38.

¹² See McIntyre Rebuttal at pages 15-16; Million Direct, Exhibit TKM-1, at page 2, and compare to current intrastate switched access rates.

¹³ See Transcript Vol. 1, Richard B. Lee (responding to ALJ) at page 221, Line 11 through page 222, line 16 wherein Mr. Lee stated: "Switched access rate levels even at the interstate are way, way above cost. And we believe that as -- and we know that as access rates have gone down, so have long distance rates. Because the biggest component of long distance rates is the access. So the federal government wants, as a retail user of long distance, it wants to see the access rates go down to cost. And getting down to interstate, which is not going to be accomplished under the settlement agreement -- it's a first step perhaps, but it's not going to be anywhere near accomplished by this one settlement agreement. It's a step. But during these

cost. Staff initially proposed that intrastate switched access rates be reduced in its case in chief.¹⁴ RUCO, through Dr. Johnson, acknowledged that the general trend in telecommunications costs and rates is downward and that it is not unreasonable for IXC's and their customers to share in the benefits of this downward trend.¹⁵ Even Qwest Communications Corporation ("QCC"), Qwest's CLEC affiliate, recognizes that intrastate switched access rates need to be reduced immediately.¹⁶

While the Settlement Agreement does not reduce access charges to economic cost or achieve interstate parity, let alone completely resolve the inequities discussed above resulting from disparate charges imposed on different service providers for functionally equivalent services, the Settlement Agreement represents a significant step in addressing long overdue switched access reductions which will allow IXC's to better compete with other competitors that do not pay the same rates for switched access services or pay no switched access charges at all. The \$12 million reduction represents about 40 percent of the \$30 million reduction¹⁷ that was requested by MCI in order to reach interstate parity. It is a step in the right direction and begins to address the Commission's concerns raised about intrastate switched access rates since 2000.

three years, I think the federal FCC is going to find that the interstate access rates are too high. And that, again, we would applaud because we would like to see prices reflect cost."

¹⁴ See Regan Direct at page 39.

¹⁵ See, Johnson Direct at page 200.

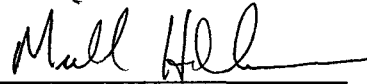
¹⁶ See, Exhibit DP-7 attached to Exhibit MCI-1, a pleading filed by QCC in a California PUC access charge proceeding.

¹⁷ See McIntyre Direct dated May 20, 2004 at page 16, line 3, and Ziegler Direct at page 14, line 7 and page 15, line 5. McIntyre states a need for a rate increase of \$1 per month per customer for interstate parity, and Ziegler states that each \$5 million in reduction requires a \$0.20 subscriber line charge. Ziegler also proposed a reduction of intrastate switched access by \$5 million without a surcharge. Therefore, \$5 million offered by Ziegler and \$25 million through a \$1 surcharge (\$25 million at \$0.20 per \$5 million) is \$30 million.

Accordingly, MCI requests the Commission approve the Settlement Agreement as filed with no changes.¹⁸

RESPECTFULLY SUBMITTED this 2nd day of December, 2005.

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¹⁸ See response of Richard B. Lee to Commissioner Gleason at Transcript Vol. 1, beginning at page 225, line 22, wherein Mr. Lee states: "We think that this was a hard-won agreement. People were tested to the edge. And, indeed, in RUCO's case, over the edge as to their ability to reach compromise. I don't think it's any more perfect than anything else that human beings do. But to adjust it -- for example, there was the discussion of, well, what if a price was increased and then the volume went up? Okay. Now, first of all, it's hard to imagine any of Qwest's volumes going up. More likely they would go down. And if the Commission were to decide, well, gee, we're worried about this. They're going to be able to raise their rates 1.8 million, then maybe it comes in 1.9. More likely it will come in 1.4. I don't think that kind of detail picking should do, should be done. Does that mean that it wouldn't survive? I suppose it would because this is a good solid agreement, but I also don't think it's one that should be fussed with a lot. Blood and sweat went into this. And although I respect the Commission's ability to suggest modifications, in this case I don't think it's probably a good idea."

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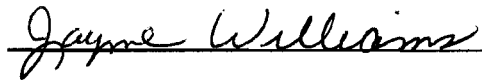
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